APERTURA DE LA SESION

Se abre la sesion a las 10:20 a. m., ocupando el estrado el Presidente, Hon.Claro M.Recto.

EL PRESIDENTE. Se abre la sesion.

DISPENSACION DE LA LECTURA DE LA LISTA Y DEL ACTA

SR. MARANARA. Sr. Presidente.

EL DELEGADO. Sr.Delegado.

SR. MARANARA. Pido que se dispense la lectura de la lista y del acta, y que se de a esta por aprobada.

EL PRESIDENTE. Tiene la Asamblea alguna objecion a la mocion? (Silencio). La Mesa no oye ninguna.

Luego el asunto en ordern

EL SECRETARIO.

CONTINUACION DEL ESTUDIO DEL PROYECTO DE CONSTITUCION. ARTICULO XI - AUDITOR GENERAL.

INFORME DEL COMITE DE PONENCIA

EL PRESIDENTE. Tiene la palabra eh Comite.

DISCURSO DEL SR. DIKIT.

MR. DIKIT. Mr. President and Gentlemen of the Convention. In recommending to your favorable consideration the provision concerning the office of the Auditor-General, contained in Article 11, purge 38 of the draft of the Constitution, permit me to make a brief history of the establishment of the auditor's office in the Philippine Government. The office of the auditor was first established in 1899 by executive order of President McKinley. Under this executive order, the auditor was appointed vy the Secretary of War and his duty was limited to auditing all transactions of customs office or both offices. In the years 1900 and 1901 the Philippine Commission approved Acts number 20, dated October 20, 1900 and number 90 dated Feb. 28, 1901. Under these two acts, the auditor was given further

power to make reform in the system of the government, that his decision was made final upon the administration branch of the military government, except that appeals therfrom may be made to the military governor. The provision of executive order of President McKinley and these two acts of the Philippine Commission were brought forward and enacted into Act No. 1792 of the Philippine Commission known as the Accountaing Act, approved October 12, 1907 in order to make the office of the auditor more or less permanent in the Philippine Government. Under the Act, the audior was appointed by the Secretary of war of the United States, with the concurrence of the Philippine Commission. His jurisdiction was extended to all Departments of the Insular Government, to Re City of Manila, to the provinces and municipalities, townships, and settlements. His decision was mad final upon the executive branch of the government except that appeals may be made to the Secretary of War. The provisions of Act 1792 were practically reproduced in sections 24 and 25 of Act of Congress of August 29, 1916 known as the Jones Law. Under this Act, the auditor is appointed by the President of the United States and his decision is made final upon the executive branch of the government, except that appeals may be made to the President of the United States. And that is what we have now today The powers and jurisdiction of the Auditor were defined and extended by Act No. 3066 of the Philippine Legislature, approved March 16, 1923, by extending said powers to all government-owned business enterprises. From this Gentlemen of the Convntion, you will see that the office of the auditor has been made a permanent institution in the Philippine government. In other countries I have investigated what kind of audits the government receive from the auditing bodies. In the United States, Congress passed an Act on June 10, 1921, establishing an independent general accounting office under the direction and control of the Comptroller General. His salary is fixed at ₱15,000.00 per annum. His term of office is fifteen years

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and removable thru impeachment. He is retired upon attainment the age of 70 years, and his duties are similar to those we are now providing in our constitution. In England, the title is comptroller and auditor-general. The office was established in the year 1866. He is appointed by the King and his salary is fixed to two thousand pounds, equivalent to about $20,000.00 in our money. He holds office during good behavior. He is removable from office by his Majesty or an address from the two Houses of Parliament. His duties are similar to those we are now providing in our draft. In Canada, the title is auditor-general. The office is created by law. He is appointed by the Governor-General. He receives a salary in an amount as may be authorized by law. He holds office during good behavior. He is removable from office by the Governor-General or an address to the Senate and the House of Commons. His duties are similar to those wer are providing in our constitution. In France, there is a Board of Acts which affirmed the acts of the judiciary and also reports to the legislature for any infraction of the law of the Budget. The office was created in 1807 and further modified in the year 1831. The finctions of this Committee is almost the same as that being provided by us in our constitution. In Germany, under Article 86 of the constitution, the accounts are audited in the manner to be provided for by law of the Rhine And the duties are almost similar to those we are now providing also in our constitution. In Japan, under Article 72 of the constitution, the expenditures and revenues of the State are verified and confirmed by the Board of Audits and submitted by the Government to the Emperor or Diet. The organization of the Board of Audits is determined by law separately. In Turkey, under Article 1((of the constitution, a special Board of Accounts, dependent on the grant of the National Assembly and charged with the verification of the receipts and disbursements of the State is provided for by law. In the Irish Free State, the

title is Comptroller and Uditor-General and his duties are similar to those being provided by us in the draft of our constitution.

MR. GRACIDA. Just for an information. About that history of the provision that we have now under discussion. Is it in any way connected or related or derived from the history that you are now mentioning?

MR. MIRIT. No. This is particularly patterned after the present organization of the Bureau of Audits of the Philippine Government and partly following the provisions contained in the Act of Congress with reference to the creation of the Office of the Comptroller General.

MR. GRACIDA. In other words, your talk has no reference to this draft.

MR. MIRIT.No. I just cited those cases just to inform you that different countries provided certain offices for the auditing of the accounts of the government. Some was made in theconstitution and some was made by law. That is the reason why I was citing those other countries.

I think it will be interesting to you to observe the total recepts and disbursements that passed thru the hands of the Auditor's Office. I have figured for the last ten years beginning 1924 to 1933. The income of the central government for the ten-year period was ₱885,022,000.00. the local government or the provincial and municipal governments was 651,256,000 pesos or a total of 1,536,000,000 pesos. The expenditures that also passed thru the hands of the Auditor for ten years if 873,000,000 pesos for the central government and the local governments 682,000,000 pesos or a total of 1,560,000,000 pesos. These figures will show the importance of having an independent auditor's office.

MR. MARAMAG. Mr. President, may I ask a question to the gentleman?

THE PRESIDENT. The gentleman from Rizal may answer if he so desires.

MR. BARAMBA. Is the gentleman speaking for the draft or for his amendment?

MR. DIKIT. I am speaking for the draft and also for the mendment. I will now go to the amdment that I have submitted to show you furtner the importance of the independence of the Auditor's Office.

MR. VINZONS. Mr. President, just a question to the gentleman from Rizal.

THE PRESIDENT. The gentleman from Rizal may yield to the gentleman from Camarines Norte.

MR. VINZONS. Are those amendments which the gentleman was trying to discuss duly presented?

MR. DIKIT. Yes, Mr. President.

MR. VINZONS. Will it not be wise to proceed to the order of amendments?

THE PRESIDENT. I think those are the amendments of the Committee.

MR. DIKIT. I thought I will discuss now so that I will not have to take the floor all the time. I will just discuss briefly each amendment.

On page 38, line 13, after the word comaission, we propose the following amendments by adding the following words or sentence: "Unless otherwise provided by the National Assembly the Auditor receives an annual salary of twelve thousand pesos. No person shall be appointed Insular Auditor who is not thirty five years of age and a certified public accountant and must have an experience of ten years. The reason for that is this. We do not want that the Auditor should play politics. If his salary is not fixed in the law he may play politics by seeking thefavor of the parties so as to give him higher salary.

SR. RAMOS. Deseariamos saber cual es la parte de esta disposicion que esta tratando ahora?

EL PRESIDENTE. La auditoria.

SR. RAMOS. Pero cual es la parte de la auditoria que se va a discutir ahora?

EL PRESIDENTE. El delegado Dikit esta anunciando las

enmiendas del Comite que tienen preferencia, segun las reglas parlamentarias, sobre las enmiendas individuales, de manera que vamos a considerar primeramente las enmiendas del Comite en si tiene enmiendas.

SR. RAMOS. En ese caso tenemos que considerar enmienda por enmienda las enmiendas del mismo Comite.

EL PRESIDENTE. El puede explicar ya, para ganar tiempo, de un solo golpe, cuales son las enmiendas del Comite, y la Asamblea votara separadamente esas enmiendas del Comite, y si algun delegado quiere hablar en contra de la enmienda del Comite, puede hacerlo.

SR. ENRIQUEZ. No podria yo proponer que aquella parte de la enmienda Dikit sobre sueldo no se trata ahora, sino que se trate juntamente con la escala de sueldos, ya que se ha acordado por la Asamblea que se va a discutir en un dia determinado la cuestion de los sueldos?

EL PRESIDENTE. No habria inconveniente para eso.

SR. DIKIT. No tenemos inconveniente para eso.

(continuing). No. The qualifications are necessary in order to insure that we will have a qualified auditor. We do not want to repeat the mistakes made in Washington in the past by sending here a man who was not qualified for the position. Fortunately, we have now an Insular Auditor here who is the mo most qualified person that was everm sent to the Philippines, because he is a certfield public accountant by profession. That is the reason why we believe that the qualification of the Auditor must be inserted in he constitution that we now have.

The other amendment is on page 39, line 16. After the wordd "him" add the following sentence:"He shall publish annually simple comparative statements of the conditions of the operations of the government." You will remember that this similar provision was taken out vrom the legislative department so that a copy is inserted in the office of the Auditor General. Hi is a technical man of the government and I believe

he is the one to publish the accounts of the government for information of the Congress of the United States.

SR. ENRIQUEZ. Para una informacion, S. S. al hablar de su segunda enmienda enunciada aqui, debe decirse asi: "and shall publish annually simple comparative statement of the condition and dispositions of the Government." S. S. hizo referencia a una provision bajo el capitulo del poder legislativo. Se si ha podido referirse a inciso 10, pagina 12 del draft, a la segunda parte de dicho parrafo que se lee como sigue:

SR. MIKIT. Si, señor, y esto fue eliminado a peticion mia para trasladarlo a la oficina del auditor general. Eso fue lo que he sugerido.

(continuing). The third amendment is on page 40, lines 1 a and 2. Strike out the words "may be taken directly to a court of record or the Supreme Court," and in lieu therefore insert the following: shall be made in the manner to be provided for by law. The reason for that is that the government is immuned from civil suits in certain cases and if we do not to amend the draft as it is, our government will be confronted by many civil suits filed by party aggrieved from the decision of the Auditor-General. Hes is one law, Act 3083 of the Philippine Legislature which says in Section 1: "Subject to the provision of this Act, the Government of the Philippine Islands hereby consents and submits to be sued upon any moneyd claims involving liability arising from contract, express or implied, which could serve as a basis of civil action between private parties." This is the only case wherein the government can be sued.

SR. ABELLA. Para una pregunta al orador. S Z. Presidente, ~~xxxxxxx~~ EL PRESIDENTE. Puede contestar el orador si lo desea

SR. MIKIT. Si, señor.

SR. ABELLA. En la pagina 39 del draft se prescribe un maximum que diez años para la tenencia del cargo de auditor insular. Podria decirme el orador cual es la razon filosofica que ha movido al Comite para marcar se

que han movido al Comite para fijar esa plazo fijado para la tenencia del cargo del auditor insular.

MR. DIKIT. The reason for fixing the term of office of the Auditor General are these: The accounting work is so rigid that after certain number of years the mind of an accountant befme so thired and it is necessary that he should be relieved after certain number of years. In the United States, the term of office of the comptroller General has been fixed to 15 years. That was my original idea in submitted draft of the committee on Finance and Accounts and I think that the committee was right in reducing the number of years from 15 to 1 0 years. Besides, as we are providing in the constitution that the auditor is an important constitutional officer in the government, we have to provide a change once in a while. The office of the auditor is very tempting because all disbursements of public funds have to pass thru this hands. And you have to consider that he is human. If he stays in the office for a long time, he might abuse his powers and it would be detrimental to the government, altho of course there is a provision for impeachment butthe procedure of impeachment is difficult to secure and that is themain reason why we believe that the tenure of office should be limited to stay 10 or 15 years, and I believe 15 years is fair in view of the climatic conditions.

SR. ABELLA. Quiere decir su señoria quesi se presenta, por ejemplo, el caso de un joven de 3 0 años es nombrado auditor insular, que a los 4 0 años la mentalidad de este señor estara tan cansada y fatigada que ya no podra ejercer el cargo ?

MR. DIKIT. That depends upon theactivity and physical conditions of the man occupying the position. If the man occupying the position will devote his time really to the work of auditing the accounts of the government, I am sure that in ten years he is practically a exhausted and he must retire to private life and practice his profession because in the

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practice he can find time to indulge in recreation.

MR. ABELLA. Therefore the speaker admits the possibility that the mind of a person is dependent upon the attendant circumstances that determine the capacity of this person. Why then make the tenure of office dependent upon the ability, upon the conduct, upon the good behavior or upon the usefulness of this officer and not upon the arbitrary supposition that after ten years the mentality of a person is so tired of his work that, of necessity, he has got to be changed. Is this not an injustice to aman who has been discharging the duties of his office for 15 years and therefore has acquired much experience after that time, ex post facto, he is dischargecand a new one is put in his place. There are many offices in the government whose activities are equally taxing and yet we do not have this provision. But we make the office dependent on the good conduct, behavior and usefulness of this officer. Would you then accept an amendment to the affect that it should be dependent on other facts that determine the capacity of the man or rather the ability of the manin office and not precisely on the arbitrary supposition that after ten years a public officer is so tired that he has got to be changed ?

MR. SIKIT. I do not know about that. As to accepting the amendment, it will dependen entirely upon the man occupying the position. I see no reason why we should give a monopoly for the office. There are so many who are entitled to be appointed. Besides, if a man is really good accountant, certainly he himself would notwt to stay for a long time in the government service for the pay that the government can afford to pay. In the United States, and even here in the Philippine, now, for example, we have a most qualified man in the person of W. Jones, as Insular Auditor. He is the most qualified Insular Auditor that has been sent to the Hilippine government and he was reluctant to come over the Philippines and accept the

position of Insular Auditor at P12,000.00 peryear. Why? Because he was getting twice that much in his professional practice in the United States, and he told me frankly that he came only as a tourist. He want to have more experience inthe Philippines and see the country. That is why he accepted the position.

MR. GRAFILO. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield, if he so desires.

MR. DIKIT. Willingly.

MR. GRAFILO. Is it not prohibited in your amendment for a reappointment of an auditor, for example, whose tenure ofoffice after ten-year period has expired, can be he again reappointed should the need of his services be required by the Gobernment?

MR. DIKIT. No; precisely, we want to prohibit their reappointment so that they willnot play politics. If we will not prohibit te reappointment, they will continually play politics, and it is dangerous for the Government to have a man to play politics in that position.

MR. CABARROGUIS. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield, if he so desires.

MR. DIKIT Willingly.

MR. CABARROGUIS. Is it the idea of the committee in putting up ten years in order to curtail the possibility of the auditor becoming a politician himself ?

MR. DIKIT. Not only that, in order also not to abuse his power and at the same time to give a chance to to others who may also qualify for the position. I am sure that since the accounting profession has been recognized as a profession since 1923, we have now many

qualified Filipinos who can occupy the post.

MR. CABARROGUIS. The interpellations of Delegate Abella were intended to find out what was the philosophy of putting years; why not put as a condition the good behaviour and good conduct of the auditor as the basis of the tenure of office, or what is the philosophy of putting up ten years as a limitation for his tenure of office?

MR. DIKIT. The philosophy is to take away from the auditor the possibility of playing politics. That is one of the objects; and, of course, as to the proposed amendment by Delegate Abella, I would rather leave that before the convention for decision.

MR. ADDURU. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield, if he so desires.

MR. DIKIT. Willingly.

MR. ADDURU. I was wondering if it was better here if we make the tenure of office of the Auditor General coincide with the tenure of office of the President of the Commonwealth.

MR. DIKIT. If that is the case, you make the office political.

MR. ADDURU. I had in mind this that if we make the tenure of office coincide with the tenure of office of the President, and since the President is the one to appoint the Auditor General, we should give the President a chance to appoint his own man, because in case the auditor is not altogether in good term with the President the Auditor General may increase red tape, may block the administration of the President as has been done in the last years in the case of Mr. Ben F. Wright when he of-

ferred all wys of blocking the administration for his own purposes.

MR. MERIT. I think we should not fear about that. That is why if the Government can appoint a qualified man for the post, I am sure that modern auditors now know the business and their work is constructive and not obstructive, and they can cooperate in anything which is good for the interest of the country regardless of the heads of departments whose accounts are being audited by the Auditor General. If you make the tenure of office coincide with the tenure of office of the President, you will practically convert the office of the Auditor General a political one. And that is the very thing that we want to avoid, especially we have been hearing the coalition now-a-days. Now, we have got to provide a strong man, entirely independent, to check the many abuses which may commit the Government, and that is the object really of having an entirely independent office of the Auditor General.

MR. ABDUL. I do not quite agree with the gentleman from Rizal, because, since the Auditor General is appointed bythe President, any way, and I think the office is elevated enough, I would thinkeven if his tenure of office is six years to coincide with that of the President, I do not think the man to be appointed Auditor General should be just the man to serve as histool in politics.

MR. MERIT. Why? Surely he will, because he is to be appointed by the President. His term of office willcoincide with that of the President. You know how much harm he will do to favor the man who appointed him. Now the appointment which is a matter of form, just the in same way that the justices of the Supreme Court, the judges of the Court of first instance willbe appointed by the Chief

Executive. There is no reasonwy we can expect that the auditor will play politics for the simple reason that he is appointed by the Chief Executive of the nation.

MR. ADDURU. But at least he has MKX six years to play politics if he is really a mante play politics.

MR. DIKIT. That is it. If he plays politics, you cannot have an independent auditor, because he will favor the man whoappointed him.

MR. ADDURU. On the other hand, if we place ten years, after the expration of the six years, under the administration of another man, inthe remaining four years, he can play politics under the new President.

MR. DIKIT. Nay Sir. He can not play politics because, in view of the fact tht he has ten years to serve, in other words, his term of office does not coincide with the tenure of office of the man who appointed him. Now, there is a great harm that can be done. Supposing the term of the Auditor General Coincides with the term of office of the Chief EXECUTIVE Executive, inasmuch as these two men are to step out after six years, they can enrich themselves by conniving with each other.

MR. ADDURU. I do not think that is as dangerous or disadvantageous to the country as thecase where an Auditor General does not belong to any party of the new President, because in that way when he blocks, you know alreadythe red tape that is caused.

MR. DIKIT. That is precisely what we want to avoid-- that this auditor General should not belong to any party in the Government, because he can not be independent if he belongs to some party.

MR. ADDURU. In case the Auditor General does not coincide with the President-elect, he has all the chances of blocking his administration. You are really aware of

the many practices complained of now in our Government where a provincial auditor simply because he did not favor the provincial Governor, he offered all sorts of resistance--all means of blocking the administration of that provincial Governor. The same thing may happen in the case of the Auditor-General.

MR. BENIT. I think the Delegate from Cagayan knows that in these cases there are appeals made. Supposing that in the case you have cited, the provincial officials disagree with the procedure of the provincial Auditor, the proper procedure for them is to appeal either to the Insular Auditor or to the Governor- General. Now, in the case of the Auditor General here, the same thing may happen during the commonwealth period. If any one is aggrieved by the decision of the Auditor General, he can appeal to the President of the United States.

MR. ABOITIZ. That is very true, gentleman from Rizal, but the trouble is that the harm is already done and the government has already lost time and money.

MR. BENIT. What harm? I can not see any harm.

MR. ABOITIZ. By making or increasing red tapes.

MR. BENIT. This red tape. It depends really upon the man occupying the post. Modern auditors now-a-days understand their duties.

MR. PEREZ Y. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield, if he so desires.

MR. BENIT. Willingly.

MR. PEREZ Y. From the statement of the gentleman, I have the impression that he has an amendment which provides for the case under which the government may renounce its rights of immunity from suits. I would like to know whether

to whether my impression is right or not?

MR. DIKIT. Yes, sir; you are right in certain case.

MR. PEREZ J. Will you please, in view of the fact that I do not have any knowledge of any constitution which provide for cases which the government renounces its right and immunity from suits, will you please explain in detail that amendmet which you propose to introduce?

MR. DIKIT. Here is Act. No. 3 083. In section 1 of that act, it says: "Subject to the provisions of this Act, the Government of the Philippines Islands is hereby consent and submits to be suef upon any money claimed involving liability arising from contracts, expressed or implied." In ther words, contracts only. Now, supposing that the director of a Bureau ran over a child on the street in the performnce of his official duty. That private party cannot use the government just because the director of bureau ran over a child on the street, which is a private liability on the part of the director. And that is why this law inumerates practically under what cases the government can be sued, and it is practically the same in the United States. The United States enumerates the cases upon which the Federal Government may be sued.

MR. PEREZ J. Yes, does the gentleman want to elevate the provision of Act. No.3 083 to the category of fundamental law?

MR. DIKIT. No, sir; that is why in my amendment I have just proposed this. When the aggrieved party is a private person or entity, an appeal from the decision of the Auditor General shall be made in the manner to be provided for by law. The legislature will provide

the manner under which the appeal may be made.

MR. PEREZ J. Thank you. I was under a different impression.

SR. YSIP. Para algunas preguntas al orador.

EL PRESIDENTE. El orador puede contestar, si lo place.

SR. DIKIT. Si, señor.

SR. YSIP. No cree S. S. que la delicadeza de las trabajos del Auditor pueden compararse tambien con la delicadeza de los trabajosdalos jueces del juzgadode primera instancia y de los magistrados?

SR. DIKIT. De los magistrados, si.

SR. YSIP. Y por eso, al poder judicial se lo de toda la independencia necesaria para ejercer sus funciones sin ninguna ingerencia extraña?

SR. DIKIT. Si, sr.

SR. YSIP. Y ese mismo es lo que se quiere dar a la oficina del Auditor

SR. DIKIT. Si, señor.

SR. DIKIT. Si, señor.

SR. YSIP. Entonces, que logica se ha seguido en el proyecto de constitucion cuando al Auditor Insular solamente se le da un termino de diez años, sin ningun derecho a renombramiento, y en cambio al poder judicial, a la corte Suprema y a los miembros de la judicatura, se las da todo el termino necesario, mientras observen buena conducta?

MR. DIKIT. I believe the reason for that is because in the judicial department, the justices of the Supreme Court and the justices have this advantage over the auditor general--they are the once who decide cases, and the longer they remian in the office, the better their decisions are respected bythe people and

the better they become thoroughly tested in their knowledge and in their integrity nam such judges of the courts of first instance or the Supreme Court. In the Auditor's Office,it is not the case. The auditor himself sometimes does not decide all cases that come to him,not like the judges of the courts of first instance, that the judges have to decide for themselves. They cannot delegate their power. The Auditor can delegate powers to his assistants to decide cases. So there is practically no trhle in making the Auditor entirely permanent for office because other men can step in without disrupting the organization of the office.

SR. YSIP. Entiendo de S. S. que al sostener que el termino del auditor tiene que ser solamente diez años, sin derecho a ningun renombramiento, es para que no se mezcle la politica y no pueda hacer politica el auditor general?

SR. DIKIT. Es una de las razones.

SR. YSIP. Bien; entonces, no cree S. S. que esa manera de argumentar se basa en una premisa falsa, en el sentido de que desde el comienzo nosotros ya dudamos de la integridad y de la honestidad del Auditor General ?

SR. DIKIT. No, señor. Todo eso, sabe el Delegado lo tenemos que prever, tenemos que tomar precaucion necesaria, porque si estuviesemos seguros de quetodos nuestros funcionarios son honrados, yo creo que no tendriamos necesidad de alargar nuestra constitucion conestas disposiciones. Precisamente estamos preparando la maquinaria gubernamental en tal forma que se hagan todas las precauciones necesariascontra los abusos de los gobernantes.

SR. SAGUIN. Sr. President, parece que ya ha expirado el tiempo del orador que ha estado hablando ya por una hora.

EL PRESIDENTE. El delegado por Tayabas puede dirigir dos preguntas.

MR. SALUMBIDES. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield, if he so desires.

MR. MERIT GILLIEMLY.

MR. SALUMBIDES. In connection with your explantion that the nature of the work ofthe auditor is not only auditing but also deciding cases. Don't you think that one qualification also of the Auditor should be a lawyer besides a public accountan, because I think that is the principle work of the auditor?

MR. MERIT. No, sir. Nowadays, a certified public accountant has a knowledge of accounting auditing and also commercial law. That is one of the requirements to be certified public accountant. Therefore, an auditor general who is certified public accountant s knows practically the Civil Procedure and the Cofercial Law and the Negotiable Instrument Law. Those are among the qualifications to become a certified public accountant.

MR. SALUMBIDES. Just one more important question. Here on page 30, the auditor can only audit the government accounts. This does not include the government-owned corporations.

MR. MERIT. Now sir, because as I have stated before, there is a separate law forthat. It is up to the legislature to include government-owned corporations. Just for example, here is Act. No. 3 066,

SR. SALUMBIDES. If we do not include that here, will it not prohibit the legislature from doing that?

MR. MERIT.Here is Act. No. 3066 of the Philippine Legislature extending the power of the auditor go government-owned business enterprises.

EL PRESIDENTE. Ha expirado el tiempo del orador.

SPEECH OF DELEGATE ROXAS

MR. ROXAS. Mr. President, just a few words to explain the theory that moved the committee in proposing a fixed tenure for th auditor and the manner of his appointment. The auditor, as that office is created in the draft of the constitution, is not only an auditor but also a compttroller. As was explained here by Delegate Dikit, he has not only to approve and examine accounts, but he has to pass upon the legality of expenditures. Why is a fixed tenure provided? For these reasons, Generally, an Auditor should serve as a chek on the Executive. The Executive Department authorizes the expenditures of public money in accordance with the appropirations made by the legislature. What method, what means, shall the legislture possess in orderto determine whether or not public moneyes are spent in accordance with laws passed by the legislature.

The only means provided in our Constituion as in the constitutions in other countries is the office of the auditor; therefore, if the auditor is a check on the Executive, it is not wise to make the auditor depend on the executive. For another ways, the Executive, if he is able to influence the auditor, may prevent the proper checking of the expenditures of the public money.

In England, Mr. President, there is no auditor, but there is a committee on public Accounts. The government is in the hands of the majority. The parliament in order to check in a manner in which the public funds are expended created a committee on Public Accounts composed of members of the ~~XX~~ minority.

What happened in private corporations? The private corporations, the management of private~~XX~~ Corporations does not appoint the auditors of the corporations. The auditor is general appointed by the board of directors

representing the stockholders. Through the auditor the board of directors checks the management; therefore , the auditor is direfctly responsible to the board of directors and to the stockholders f the corporations. Logically, Mr. President, in a government like ours, the auditor should be responsible to the Legislature, and his appointment should proceed from the Legislture. There are practicall activities that we must realize in order that we can carry out this plan. It is difficult to exert supervisory authority over the auditor if that supervisory authority is to be exerted by the legislature. There is frequent chuge of personnel in the Legislature and generally those who direct the legislature are not able to keep a close and constant witch over the office of the auditor.

In the United States, while the auditor is appointed by the President, with the advice and consent of the United States Senate, the office is kept in as an independent office--independnt over the Executive and independent over the Legislature, because he has not only to check the accounts of the Executive, but also the accounts of the Legislature. It is, therefore, the central purpose of this plan to organize the office of the auditor which shall be independent from the other branches of the Government so that the auditor can act withoutfear of lasing hs post auditing the acts of the Executive and of the legislature and of the judicial. That is the reason why there is fixed tenure.

The question was aksed why are we not making the auditor the same as the judicial officers to hold office during good behavior. The reasn why that should not be done is beanuse the functions of the auditor re-

21quire

quire administrative duies rather thn judicial duties. In a very lrge measure, he has to supervicse a vast personnel that extend to the very povince and every municipality of the archipelago, and the e xercise of such administrative function reqires, Mr. President, a high degree of watchfulness and constant supervision, which, generally is capble to beiBg exerted only by mn who have the power of youth and who are in possession of their best qualities. That is thereason why there is a fixed tenre of ten years. During the period of ten year, the auditor shall be independent as the justices of the Supreme Court, liable only to removal by means ofimpeachment. If here is no limitation of thetenure of office, there will be an inclination on the part of the auditor to be in good term in with the president for fear tht charges of inefficiency may be filed aginst him. He may not be reappointed because, if you willpermit him, his inclination will be jeturnlly to enter to the good graces of the executive so that upon the expiration of the period of ten yus, he may be reappointed. Ten years is enough time for ony able mon toserve hiscountry in that capacity. After tht period, if the Government wants to recognize his usefulness and wants p reward him for his services, there are ether sorts in the Government to which he may be appointed. That is the reason why there is a fixed tenure.

In the United States, there is a fixedterm, and I believe, if we want to preserve the auditor from the influence of politics, if we want to make that office independent, we must make it independent in such a way that we must fix the tenure during which time he can exercise his duties without fear of displeasing either the ~~Ed~~ legislature or the Executive.

SR. ABELLA. Sr. Presidente, para algunas preguntas al orador

EL PRESIDENTE. El orador puede contestar, si le place.

SR. ROXAS. Si, señor.

SR. ABELLA. Parece ser que una de las razones que cita el Comite para fijar el plazo de diez años es el hecho de que se necesitan las energias de la juventud para desempeñar con exito el cargo de Auditor General, en vista de los dificil que se e es el cargo.

SR. ROXAS. Esa es una de las razones solamente.

SR. ABELLA. En ese caso, por que no fijamos un limite de edad en vez de un plazo de incumbencia?

SR. ROXAS. Porque hay hombres que son jovenes a los sesenta años, y hay hombres que son viejos a los cincuenta años. De modo que cada persona que se nombre Auditor, al hacerse el nombramiento se sabe que el ha de ocupar el cargo por diez años; por tanto, se tiene en cuenta su estado fisico y si capacidad mental.

SR. ABELLA. Y por que no suponemos todo lo contrario, de que todo hombre que haya llegado a los sesenta años no es necesariamente incapacitado para desempeñar el puesto.

SR. ROXAS. S. S. tiene razon; pero es mejor que el Ejecutivo, tenga en cuenta que ese hombre va a servir por diez años solamente en ese puesto particular. Que razon de abrir las puertas para que ese hombre pueda ser renombrado para ese puesto, en centro del peligro de que tendriamos de que el auditor desee congraciarse con el Ejecutivo al objeto de ser nombrado, y por tanto deje pasar o apruebe algunas cuentas de caracter dudoso, que de otro modo, no se hubiese aprobado si estuviese independiente?

SR. ABELLA. No se puede presentar una enmienda al efecto de que el tenente de un cargo, por ejmplo, el de auditor general, si no llega a tener capacidad, pierde el cargo durante su te-

nombre? No cree S. S. que esto es mas justo, que privar ip so-facto, despues dd diez años a una persona en el pleno goce de su capacidad, con la experiencia acumulada por diez años, dejandole cesante precisamente en el tiempo en que el gobierno mas necesita de su experiencia adquirida?

SR. ROXAS. Mi contestacion a eso es que si, realmente, el ha servido bien al pueblo y tiene capacidad, el gobierno puede n nombrarle para otro puesto. Lo malo es permitir que el gobierno pueda separarle antes de diez años, y esto acarearia las mismas dificultades que tendriamos si permitaieramos la separacion de un magistrado de laCorte Suprema por alegada incapacidad. Para eso, el check del Senado, el Ejecutivo, no puede nombrar al auditor sin la confirmacion del Senado. Tiene que estar seguros de su capacidad mental y moral antes de nombrarle.

MR. ADDUNU. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield, if he so desires.

MR. ROXAS. With pleasure, gentleman from Cagayan.

MR. ADDUNU. I quite agree with the gentleman from Capiz that we should have an independent auditords office in order to insure the stability of our finances; but, as long as the Auditor General is appointed by the President, since he can not dismiss politics from his mind because he must be grateful to the one who appointd him. Would it not be better, therefore, to make the Auditor General not owing his office to any one particular man by making the office elective so that he is directly responsible to thepeople, instead of being responsible to a certain party or to a certain Exe cutive or to a certain member of the Assembly..... and in that case his responsibility is toward the people directly.

MR. ROXAS. That is to say you want to avoid politics by emerging the Auditor into politics. I believe that there is no better way of selecting the Auditor than the one pro-

posed in the draft, but I will be willing to hear any proposition with regards to the fixing of the tenure of the office.

MR. ADDUNRU. Suppose we have an Auditor who from all appearances seem to be an ideal man who will be found later on that he is aman that cannot cooperate in the goverment. He is high-headed that he thinks he is the whole cheese and thinks that he can do more than the legislative and the executive. In other words he is an obstructionist. He knows he has a fixed tenure of office and as long as he does not commit great offense we cannot remove him from office. On the other hand we are suffering ten years suffering the impertenence of that man.

MR. ROXAS. My answer is, that is one of the defects of our human institution. Suppose we elect a President who is not a good man, for six years, we have nothing to do but to suffer. That is one of the weaknesses or of human institution.

MR. ADURNU. Just like the case of the justice of the peace. His tenure of office is fixed. He is already old and cannot perform his duties as justice of the peace. If we try to oust him he brings the matter to the court. In the case of the auditor general don't you believe that six years is long enough to serve his country and if we give him six yars more the country will better be benefited?

MR. ROXAS. For the same reason that we should not allow the re-election of the president. His first term will be generally used to insure his re-appointments. He will never do anyting which will disagree with the views of the president. The reason why we suggested the fixed ten-year period is in order to how that the position os non-political so that the first President will appoint the

Auditor General, and the second President will not appoint- until four years of his term has expired. The Auditor will not necessarily belong to the same party. This man must be chosen in accordance with the rules which obtain in the choosing the justice of the Supreme Court. His ability more than his political affiliation is the one that should be counted. Of course, under equal circumstances the president will appoint a mand of his party but generally in theory he should appoint amman the most capable and most trustworthy.

MR. ADURNU. That is in theory, but as long as the Auditor General is a human being he must be grateful to the one who appoints him. Suppose that we elect as President, Mr. Quezon, and he recommends a man as Auditor General for ten years and at the end of six years, the gentlemen from Capiz rises up and is elected as President.

MR. ROXAS. I wantx to thank the gentleman because he has a better vision than I.

MR. ADURNU. It is possible tat the gentleman from Capiz being then elected as President of the Republic has a different idea or program of government. The Auditor General appointed by former President Quezon may disagree with him and block Mr. Roxas' administration. Is not Mr. Roxas who appoints the Auditor General or the general public that is blocking the administration of the man? You would rather give a chance to your own man. That is the only emendment.

MR. ROXAS. You know under the draft appeal may be made to the decision of the President. His decision is final. There is nothing that the Auditor can block the President, but if the Auditor General decides important question it will be a very good reason to over-rule the Auditor. That is why we always give the President the ul-

timate power to over-rule the decision of the Auditor, so that the Auditor General cannot obstruct the program of the President.

MR. PEREZ J. Will the gentleman from Capiz yield for a question?

THE PRESIDENT. The Gentleman may yield to the gentleman from Negros Occidental if he so desires.

MR. PEREZ, J. The gentlemen fefers that the Auditor acts as check to the executive. According to the provisions of the draft the decision of the Auditor is appealable to the chief Executive. If the decision of the Auditor is appealable to the Chief Executive how can we say that the auditor is a check to the Chief Executive?

MR. ROXAS. The gentleman from Negros Occidental is partly right. We have tried to develop a system that would work as a combination between the parliamentary and the presidential system and that is obtained in private corporations. The decision of the Auditor General on private corporations is final. Of course, an appeal may be taken to the Board of Directors for final adjudication. But in a system like ours I would believe that you want to make the decisions final in all cases. We may permit an appeal to the President in cases when the controversy is between the different branches of the gover ment, but when the controversy is between private party, for exampl, a contractor who has money claim the appeal may be taken to the courts for final adjudication and not to the President.

MR. PEREZ , J. If the decision of the Auditor is appealable to the President therem may arise a situation whereby super-auditors without responsibility would seek advisors against the decision of the Auditor thus creating therefore super-auditors without any responsiblity .

MR. ROXAS. I do not think we have super-auditors now. There is nothing that wreates super-auditors. And appeal

against the decision of the Insular Auditor may be taken to the Governor-General.

SR. GUZMAN. Al. Quiero hablar, Sr. Presidente, en contra de la segunda enmienda del Comite.

EL PRESIDENTE. Un momento, el Sub-Comite de Siete parece que no acepta la enmienda del Comite, y por eso vamos a considerar ahora las enmiendas de los Delegados Cannonoy, Vinzons, Perez y otros. Creo que podemos votar estas enmiendas porque son similares.

MR. VINZONS. Mr. President, I believe that only one side of the proposition has been discussed. The arguments in favor of the amendment have not been expressed before this Assembly.

THE PRESIDENT. The interpellations made by this Assembly.. ... Creo que los argumentos se han expuesto en forma de preguntas.

MR. VINZONS. Mr. President and gentleman of the Convention: The amendment now pending; your enlightened consideration seeks to estetblish the tenure of office of the Auditor General during good behavior. In presenting this amendment, before this august Assembly.....

MR. GRACERA. Just for an information, Mr. President. May I know whether we are considering the amendment of Delegate Cannonoy?

THE PRESIDENT. Yes.

MR. GRACERA. But the amendment of Delegate Cannonoy has another part.

SPEECH OF DEL. VINZONS.

MR. VINZONS. Mr. President, in submitting for your consideration this amendment, our objective is the same as the objective here enumerated by the Gentleman from Capiz in sponsoring this draft of the constitution. We fully agree with him that the office of the Auditor requires a great deal of

impartiality, a character of non-partisanship because the Auditor General is directly concerned with the proper accounting and disbursement of the expenditures of the public funds. We differ simply in that while the Committee advocates a term of ten years, the proponents of the amendment advocate a tenure of office that will last during good behavior. Mr. President, the issue is whether a term of ten years for the Auditor General will secure a greater independence in the office than a term furing good behavior. We respectfully submit to your consideration the following argment in support of our amendment.

In the first place, Mr. President, the term of tenyears will not entirely eliminate the partisan nature of the office of theA Auditor General, we may suppose for instance that the first President under the commonwealth appoint a certain person to occupy te peition of Auditor General. He occupy the position of Auditor General. He occupies the position for a term of ten years, and therefore his tenure of office expires four years after the assumptions of office of the next president of the Commonwealth. We can see from this computation of time Gentlemen of the convention, that the effort of the next President of the commonwealth will be to choose a man to occupy the position who comes from his own political party and not as originally intended bythe authors of the draft, a man who will exercise his duty impartially and with no character whatsoever of a political partisan nature. We have been appraised by the gentleman from Nigal of vmrious constitutional provisions with respect to the Auditor General in the countries in Europe and we sincerely submit that in these countries while there is a certain divergence of provisions with regard to the tenure, the tendency has always been that the Insular Auditor, if it is desired, to secure his complete ~~Sa~~ independence in office, would be to appoint him during good behavior. Mr. President, the office of Auditor General

dent, the office of the Auditor General is of so vast an importance and so closely connected with the life of the nation that we should think twice in adopting an innovation such as suggested in this draft. Under the Jones Law, the Insular Auditor is appointed more or less along the partisan line; that is, a new president of the republic of the United States appoints a new Insular Auditor upon his assumption of office. While this is not true, in all cases, and while this partisan nature of the office of the Insular Auditor has not been established here, an Insular Auditor who caters to the interest suits the welfare of each political party, yet we ascribe the effect not to the fact that he is appointed by every new President on a political alignment, but because the Insular Auditor in this country is never concerned in partisan strife. Mr. President, under the Commonwealth and under the republic that we are seeking to establish, the Auditor General will be under the direct supervision of the President of the Commonwealth. Under the last section of this article, the President has the last say in appeals brought from the decisions of the Auditor General. This being the case, we should further fortify and strengthen the office of Auditor General in order that graft and corruption shall not thrive and the useless expenditures of public funds shall not be rampant. It is of great importance, Mr. President, that incoming years there should be an explicit faith in the stability of our structure of government. A corrupt auditor General who shall be subject to partisan strife will not deserve the confidence and the trust of the people.

MR. ROCAMORA. For a question.

THE PRESIDENT. The time of the gentleman has expired.

MR. VINZONS. The chair states that my time has expired.

SR. PRESIDENTE. Los que esten en favor, que digan si. (Varios Sres. Delegados: Si) Los que no lo esten que digan no) (Varios Sres. Delegados: No) Queda rechazada la enmienda.

MR. VINZONS. Mr. President, we seek for a division.

THE PRESIDENT. Thevote is close.

RECHAZAMIENTO DE LA ENMIENDA

EL PRESIDENTE. Esta dispuestala Asamblea a votar sobre la enmienda? (Una mayoria: si)

Los que esten conformes con ella, quedigan si. (Varios Sres.Delegados: Si) Los qe no lesesten, que digan no. (Varios Sres. Delegados: No) Hay una mayoria en contra de la enmienda. Queda rechazada.

Esta en orden la enmienda del delegado Gaston Cruz, en el sentido de que la duracion del cargo del presidente sea de 6 años, en vez de diez.

RECHAZAMIENTO DE LA ENMIENDA CRUZ, C.

EL PRESIDENTE. Esta dispuesta la Asamblea a votar sobre la enmienda, (Una mayoria: si)

Los que esten conformes con ella, quedigan si.)(Varios Sres. Delegados: No) Hay una mayoria en contra de la enmienda. Queda rechazada.

La enmienda del Delegado Gen podema considerarla cuando se considere la escala general de salarios.

Esta en orden la enmienda Ocampo que consiste en que el nombramiento se haga por el Speaker de la Asamblea. Dicho delegado pide que se vote su enmienda sin debate.

RECHAZAMIENTO DE LA ENMIENDA OCAMPO

SR. PRESIDENTE. Se va a votarla enmienda Ocampo. Los que esten conformes con ella, que digan si. (Varios Sres. Delegados: Si.) Los que no lo esten, que digan no. (Varios Sres. Delegados: No) Hay una mayoria en contra de la enmienda. Queda rechazada....

Esta enmienda delD Delegado Dikit ya ha si explicada por su autor. Quedée el ocbcamite?

MR. CUADRADO. Mr. President.

THE PRESIDENT. The gentleman from Batasn.

MR. CUADRADO. Mr. President, I amauthorized by the majority of thecommittee to say that this is a matter to be left to the legislature.

LA ENMIENDA DIKIT NO RECHAZADA

EL PRESIDENTE. Esta enmienda tiene por objeto definir las cualificaciones que debe tener el auditor insular.

Los que esten en favor de la misma, que digan si. (Varios Delegados: si) Los que esten en contra, que digan no. (Varios Delegados: No.) Queda rechazada.

ENMIENDA PEREZ T.

EL PRESIDENTE. Esta enmienda del Delegado Perez T.

MR. PRESIDENT. Enmienda Perez.

MR. PEREZ T. Mr. President, may I speak in favor of my amendment?

THE PRESIDENT. The gentleman from Albay has the floor.

MR. PEREZ T. Mr. President, andgentlemenof the convention. When we were considering the amendment calling for the creation of a committee on accounts in the national Assembly, to be composed exclusively bya members of theminority and generally empowered tocommine, inspect, and adit thebooks of account of thegovernment, we were led to believe that the necessity of such a measure was predicte d on the right of the Assemblyman, as legitimate representatives of the people, toknow just how our finances stand and how the public funds are being spent. It was even argued in favor ofthat amendment that under thepresent state of affairs the legislator has absolutely no way of ever knowing the actual financial status of the government except by report submitted from time to time bythe Insular Auditor

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MR. JUADRENO. Mr. President.

THE PRESIDENT. The gentleman from Batean.

MR. CUADRENO. Mr. President, I amauthorized by the majority of thecomittee to say that this is a matter to be left to the legislature.

LA ENMIENDA DIKIT ES RECHAZADA

EL PRESIDENTE. Esta enmienda tiene por objeto definir las cualificaciones que debe tener el auditor interior.

Los que esten en favor de la misma, que digan si. (Varios Delegados: si) Los que esten en contra, que digan no. (Varios Delegados: No.) Quedan rechazada.

ENMIENDA PEREZ T.

EL PRESIDENTE. Esta enmienda del Delegado Perez T.

MR. PRESIDENT. Enmienda Peren.

MR. PEREZ T. Mr. President, may I speak in favor of my amendment?

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to thelegislature as a body. To my mind, the aim pursued by that illfated amendment is to lofty to be entirely abandoned. So, it must be frankly admitted that the amendment now propoced and submitted to your consideration has been inspred partlybythat precept and influenced greatly by the illuminating debates that had takne place.

I shall not take up your precious time elaborating on non-fundamental aspects of the question. Rather, I shall at once demonstrate how it would give effect to certain provision of the draft that we have already approved and at the same time grant to the National Assembly some vestige of that power which properly belongs to the legislative departments,--the power to determine and meet the financial problems of the nationn with oureconomic conditionspermanently in mind.

Elsewhere in our constitution we have already provided to lodge the power to prepare and initiate thebudget in the President. We have likewise agreed that the National Assembly may not increase although it may decrease the appropriations recommended by the Chief Executive with the exception of those pertaining to the National Assembly and the Judicial Department. If we really contemplate the happy exercise os such a power by the National Assembly to decrease certain appropirations as circumstances warrent, thenit is only fair andlogical that the members of that law-making body should be given the instrumentality by which they co could judiciously determine what itms or items of the budget thus submitted need revamping considering always thefinancial status of thegovernment. It is only in this way, I believe, that the members of the National Assembly could ever perform their task in anintelligent manner. For we cannot reasonablyo expect the National Assembly to adjust the

budget to existing conditions makingreductions wherever necessary, unless we also provide how the Assemblymen might obtain information regarding such conditions with the leastt posible loss of time and political red tape.

Under the draft the Auditor General is under obligation to submit to the President and the National Assemblyt a report covering the financial operations and conditions of the Government. This must be accomplished by him after the close of eachfiscal year. Under the proposed amendment however, not only the President and the National Assembly as a body but the individual members thereof as well may receive such information and data of the Auditor General who shall furnish them upon request any time that the necessity for suchinformation arises.

The reason for such a change is obvious. If the President and the National Assemblyas a body alone could have the report of the Auditor General, then any member of the Assembly who might wantto clear himself of any doutful item or items of the report thus submitted or even the budget itself, would be absolutely powerless to attain his end, especially if he hapened not to enjoy the good graces of the Speaker or the President or both. Then, it might also happen that because of public interet being in the balance, immediate legislative action becase necessary, and inasmuch as some concrete information regarding our fimances had to be obtained in connection with this measure that treats appropriations, the legislator would find himself compelled to gather some datas with which ably to defend his measure on the floor of the Assembly. Under such circumstances, and under the provisions of the draft as they now stand, we would have a situation in which the Assemblyman must act in compliance with a duty but seriously handicapped by the constitution. Upon the other hand, if we adopt the proposed amendment we wold not only give him every oppor-

tunity to defend his measure by plaicng his hands all the pertinent materials that he may need but also even avoid serious conflicts between the legislative Department and the Chief Executive who migh indiscimimatelyexercise the veto power on appropriation measures passed by the Assembly on the mere excuse of a lack of funds. This is so, because then before anyattempt wald be made by any member of the National Assembly to introduce an appropriation measure, he would be in a position to know whether funds were available to warrant approval of his measure.

Before closing my brief remarks, let it be said that the proposed amendmentonly seeks to extend a little bit the provisions contained in the draft. Instead of merely submitting reports to the President and the National Assembly at the end of every fiscal year, as is provided in the draft, we propose alsoto have the Auditor General furnish members of the National Assembly information and data whenever such necessity arises.

MR. GRAGEDA. Mr. President, may I ask a few questions to the gentlemanfrom Albay?

THE PRESIDENT. The gentleman from Albay (Mr. Perez) may yield from the gentleman from Camarines Sur if he so desires.

MR. GRAGEDA. The draft says, "And such other reports required of him." Does thegentleman believe that the phrase includes everything?"

MR. PEREZ T. I do not think so, Mr. President.

MR. GRAGEDA. Does not the gentleman believe that it refers to the general provisions ?

MR. PEREZ T. It may be general but before any member of the legislature may acquire an information from the Auditor General he must get theconsent of the Speaker, and if he is poor felow and happens to belong to theminority party, hewill have no chance because there is no

resolution that can be approved by the legislature.

MR. GRAGEDA. So the gentleman does not believe that it includes the members of the minority.

MR. PEREZ T. That will refer to all members of the National Assembly whether they are mmembers of themajority of the minority.

MR. GRAGEDA. Suppose the legislature is interestdd does not the gentleman believe that it includes everybody ?

MR. PEREZ T. I did not say. I as I have explained, a resolution is necessary.

MR. ABELLA. Mr. President, will the gentleman from Albay yield?

THE PRESIDENT. The gentleman from Albay may yield to the gentleman from Camarines Sur (Mr. Abella) if he so desires.

MR. ABELLA. Do you not think that the first part of the amendment is a surplusage because the title is a combination of information and data?

MR. PEREZ T. The mre fact that thetitle is a combination of does not necessarily include information and data. If the gentlemnn will be kind enough to listen I will explain. There is a distinction between a report and information and data that the amendmentseeks.

LA ENMIENDA PEREZ T. ES RECHAZADA.

SR. PRESIDENTE. Puede votarse la enmienda ? (Una mayoria: Si)

Los que esten en favor de la misma, que digan si. (Varios Delegados: Si) Los que esten en contra, que digan no. (Varios Delgados: NO) Queda rechazada.

ENMIENDA DIKIT. ES RETIRADA.

EL PRESIDENTE. Lease la enmienda del Delegado Dikit.

SR. DIKIT. Sr. President, retiro esa enmienda.

EL PRESIDENTE. El Delegado por Rizal retira esta enmienda sobre a publicacion del "comparative statements."

Otra enmienda.

enmienda PEREZ J

EL SECRETARIO. By Delegate Perez J....

En la pagina 3 9, lineas 19 y 20, borrense las palabras: "may be appelaed to the President whose decision will", y en su lugar insertese la palabra "shall."

ENMIENDA PEREZ--SR. PEREZ [illegible]
RAZONO SU ENMIENDA

MR. PEREZ. Mr. President.

THE PRESIDENT. The gentlemanfrom Occidental Negro has the floor.

MR. PEREZ J. Mr. President, the purpose of the amendment is to curtail theright of appal to the President from the decision of the Insular Auditor. If we want really to make an independent auditing we must make the decision of hthe Insular Auditor final. For example, the obbetion of the Auditor refers to expenses of the Chief Executive it should be absurd to say tat the case of enflict between the President and the Insular Auditor the President should decide the case because we make him a party and at the same time a party and a judge. Anothe objection to appealing the decsion of the Auditor of the President hre will be cases in which the personal adviser of he President will have more power than the Auditor. We know that the President is not a technical man who decides such technical matters as the operation of the government. In this respect we must conceive an idea that the Insunr Auditor is the proper person to pass upon these accounts of the President.

MR. ABORDO. Mr. President. Will the gentleman yedl for a question?

MR. PEREZ J. Willing, Mr. President.

MR. ABORDO. In other words the decision should b really mandatory to the President.

MR. PEREZ J. In other words, my amendment is a decision by the Insular Auditor in so far as it derived the department of the government shall be final.

MR. ROXAS. Delegate Romero has filed an amendment, which I believe is an amendment to this amendment, and with his consent, I request that it be read

THE PRESIDENT. What is the amendmentto the amendment ?

EL SECRETARIO Leyendo:

Enmienda Romero.

En la Pagina 40, linea 1, cambiese la palabra "may" con "shall"

MR. ROXAS. The difference between the amendment of Mr. Perez J. and Mr. Romero is the following: Under the amenemdment of Mr. Perez J. It does nt permit any appealto the President from the decision of the Insular Auditor. Under the amendment of Delegate Romero an appeal may be taken to the President, if he case concerns questions involving different departments, or officials of the government.Then the President is the final arbiter. But if the question involves private parties,a private party, under the Romero amendment, shall appeal directly to the polls. And we accept this amendment as amended. The change in the draft under the Romero amendment is simply this : on page 4 0, line 1, instead of the word "may" insert te word "shall, " so that the appeal to the courts will lie in every case where the parivate party is aggrieved by the dec ision of the Insular Auditor.

MR. ABOROO. Mr. President, I have also an amendment to that effect, and I would like to be enlightened whether anaggrieved private party may also, in some instances, appeals to the President.

ROXAS. No, sri; with this change of the word "may" to "shall" the President has no jurisdiction to

refuse the decision of the Insular Auditor when a private party is aggrieved and appeals.

Mr. ABOITIZ. That is the case when the decision is appealed and decided by the President.

Mr. ROXAS. Yes, sir.

Mr. GARCIA. Para algunas preguntas al orador. Sr. Presidente.

EL PRESIDENTE. Al orador puede contestar, si le place.

SR. ROXAS. Si, señor.

Mr. GARCIA. A qué consiste la enmienda del Delegado, Sr. Perez?

SR. ROXAS. En que en ningun caso pede apelarse al Presidente, y el efecto de la enmienda del Delegado, Sr. Roxas, es que en los casos en que la cuestion envuelta interesa a diferentes departamentos del Gobierno, a diferentes a diferentes departamentos del Gobierno, o diferentes provincias y municipios, entonces la apelacion tiene que hacerse al presidente; pero cuando el asunto afecta a partes privadas, o a personas particulares, la apelacion debe hacerse directamente a los tribunales de justicia.

SR. YSIP. Sr. Presidente, para una pregunta al orador.

EL PRESIDENTE. Al orador puede contestar, si le place.

SR. ROXAS. Si, señor.

Sr. YSIP. Ese cambio de la palabra "will " en la pagina 39...

SR. ROXAS. No es en la pagina 39, sino en la pagina 40, linea 1.a, en vez de la palabra "may," que se diga "shall."

MR. CARARROGUIS. Mr.President, just one question to Mr. Roxas. When I was in the Auditor's Office, it has been my experience that there are small cases in which private parties are involved, with the decision

of the Insular Audior adverse to these private parties. Small dcases of that nature, shall hey be also taken to the court? I think it will be increasing the number of litigents, Mr. President. Will the committee admit a sort of an amendmentto the effect that the amount involved in the case in which a private party may be given the right tobring his case to the court should be limited to a certain amount?

EL PRESIDENTE. Que dia el comite ?

MR.CABARROGUIS. There are manysmall cases in which the Auditor Decides against a private party. Shall we bring all of these small cases to the court under this provision?

MR. ROXAS. That is the reason why we permit an appeal to the court of the first instance,not necessarily to the Supr mem Court, and I believe unless it is a very important case in and ase the court of fist instance decides against the government,thathe government will not appeal.

MR. CABARROGUIS. Will it nt bebetter that the President could decide small cases instead of appaling them to the court, as it will be very s costly to the small people?

MR. ROXAS. The question is that it is very hard to distinguishe between the small and large cases.

MR. CEBARROGUIS. The cases will be dtermined according to the value.

MR. RO AS. How much?

MR. VENTURA. Mr. President,regrding the same point, we will not be drawing a line between small and big cases, but we willrequire the private party to exhaust all remedies by appealing to the President, and he may satisfied withthe decision of the President, and he will notgo to the court.

MR. ROXAS. The danger is that if you permit the decision of the President to be reviewed by the courts, you are going to make possible many possible many conflict of authority, and I believe it is better to avoid conflict of decisions between the President and the Supreme Court. Therefore, it is better to divide jurisdiction.

SR. YSIP. Pido que se voten separadamente las dos enmienda.

EL PRESIDENTE. Es que la enmienda del Delegado Sr. Romero ha sido aceptada por el Delegado Sr. Perez. Los que esten en fvor de la enmienda, tal como ha sido enmendada, tengan la bondad de decir si.(Una mayoria: si) Los que esten en contra, sirvanse decir no. 'Una minoria: No.) Aprobada.

Estan en orden la enmienda delDelegddo Sr. Carin.

MR. CARIN. Mr. President. I want tos ask one question only. What is the reason of omitting in the draft the period within the which the appeal could be taken ?

MR. ROXAS. Because that is a question which is purely procedural and legislative in nature. Cases may vary. Certain cases should be decided in tendays, other cases may require ten months. That is the reason why I believe we should not touch upon the quesetion in the constitution.

MR. CARIN. I withdraw my amendment.

EL PRESIDENTE. Esta en orden la enmienda del Delegado Sr. Abordo.

MR. ABORDO.Mr. President, in view of the position of tshe convention with respect to the various amendments as amended and mine dealing on the same subject, I withdraw.

EL PRESIDENTE. Esta en orden la enmienda del Delegado Sr. Dikit.

SR. DIKIT. Retiro mi enmienda.

EL PRESIDENTE. Podemos aprobar el capitulorferente al

Au

Auditor General?

LA ASAMBLEA SI.

EL PRESIDENTE. Los que esten conformes en la aprobacion de este capitulo, tengan la bondad de decirmi.

LA ASAMBLEA. Si.

EL PRESIDENTE. Los que esten en contra, sirvanse decir. No. (Silencio) Aprobada.

SUSPENCION DE LA SESION.

Se suspende la sesion hasta esta tarde a las 3 :00 p. m. eran las 11:59 am

REANUDACION DE LA SESION

Se reanuda la sesion.

SR. LAUAK. Señor Presidente, pido la reconsideracion de la ultima enmienda aprobada esta mañana, en la pagina 40, linea 1, de que a palabra "may" sea cambiada por la palabra "shall" y vy a razonar.

EL PRESIDENTE. Tiene la palabra el Delegado por Camarines Norte.

SR. LAUAK. Sr. Presidente, despues de haber sido actuada y aprobada la enmienda Romero, si mal no recuerdo, vambiando la palabra "may" por "shall" en la pagina 4 0 del draft, linea 1, he encontrado que con ese cambio se perjudicara y quedaran perjudicados los pequeños reclamantes. De acuerdo con el draft, antes de la enmienda, cuando la parte agraviada deb decision del Auditor, es una persoan particuir o privada , esta podia apelar, a su discrecion, o al Presidente al juzgado, en contra de la decision del auditor; de tal suerte que si se reclamante cuay reclamancion solamente implica la cantidad de veinticinco pesos, como muchas veces ha ocurido y esta ocurriendo en provincias, de acuerdo con el draft antes de ser enmendado, esta pero sona no acudir al juzgado, que lleva consigo muchos gastos sinosolamente al Presidente, para pedir la revision de la decision del Auditor y obtener la justicia correspondiente, sin necesidad

de gastar de su propio peculio para sostener su derecho.

Despues de la enmienda,señor Presidente,se la obliga a ese reclamente, cuay reclamacion solamente implica 25, 10 o 50 pesos, a acudir, no al Presidentesino al juzgado. Desde luego, cuando se acude al juzgado necesariamente tendria necesidad de mas dinero para sostner el litigio. Esto, señor Presidente es una gran injusticia que la Asamblea ha de cometer si se sostine la enmienda haciendo obligatoria a la parte agraviadada que no esta conforme con la decision del auditor el acudir a los juzgados en vez de acuir al presidente de la republica a de la mancomunidad.

Señor Presidente,he tenido y he intervenido en muchos casos de pequeños contrtistas en provincias, que por alguna razon u otra el auditor provincialo el tesorero provincial he hecho una reduccion o se ha negado a pagar a los pequeños contratistas. Que va a hace r estos? No habra mas remedio que apelar de la decision del Auditor provincial al Auditor Insular, y si este confirma o ratifica la decision o la orden del Auditor Provincial, de acuedo con el draft, tenia discrecion el reclamente privado de acudir al Presidente contra la decision del Auditor. Este reclamente tendria que gastar, pero con la enmienda tendira necesariamente que acudir al juzgado, y si no tiene dinero con q que pagar los derechos de escribania para sostener el litigio y pagar abogados, necesariamente el pobre reglamente, cuando la cantidad reclamada es pequeña tendria que conformarse con al decision del Auditor Provincial, cuya decision sera definitiva.

Por esta razones,señor Presidente, pido la reconsideracion de la enmienda.

Mr. ROMERO. Mr. President and gentleman of the convention; I think there is no reason toreconsider what we have decided upon this morning, and I think the gen-

tlemen of the convention decided this question very properly. The gentleman who has justspoken would like theGo-Governor-General's office to be converted into an office continuallly edeciding little claims of P4 0 or P5 0 when it comes to that matter it is not likely that the Governor-General would reverse the decision of the Insular Auditor for just a matter of P25, P3 0, or P100. When it comes to that, it would be easier for a poor man to go directly to the court of First Instance just By filing an affidavit thenhe canfile his complaint without paying any fees, and now precisely in every province therew will bea public defender of te poor so tht with no expenses at all he can bring an action of mandamus with the Auditor, but if he si a poor carpenter, for example, living inthe provinces, to come to Manila to see the Governor-General and talk with the adviser about that claim of P3 0 , P4 0, or P50, I don't think that that thing will be possible. On the other handwe think all these cases of P30, P40, it is supposed that these cases have been carefully studied by the provincial auditor or the insular auditor, and, as I said, it is very likelty that in small matters in which the Governor-General does not have so much time to study the merits of the case, as is the office of the auditor, so that it is notlikely that such decisions and such small matters will be reversed, but on the other hand, we are opening the doors for great claims, let us suppose, for example, a claim of P1,000,000 a big contract for the construction of a pier, or a big irrigation system, let us not expose our chief executive to the criticisms afterwards that he has decided claims involving millions no ways other for certain reasons that will be exposing the chief executive to unjust criticisms. It is better in these cases that this matter be threshed in the constitution. So that while we may do the poor man the very dubious

favor of making it easier. I thinkit will be easier for him to go to the Governor-General 's office instead of the courts. On the other hands, we open the door wide for for matters involving millions and in ~~which~~ which the chief Executive will be unjustly criticized,for that reason, I do don't think that there is any reason to change our decision.

MR. GRAGEDA. Will the gentleman yield ?

MR.ROMERO. Willingly.

MR. GRAGEDA. Does not he gentleman think that it will entail more expensesif the appeal is taken to courts to directly?

MR. ROMERO. A, I said, if he is really por by just filing an affidavit that he cannot pay for the fees, and now there are attorney s in practically every province, so that dourse probelmatifal, I doubt whether it would not be more economical for him to come to Manila and interview the Governo-General.

MR. CUADERNO. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield, if he so desires.

MR. ROMERO. Willinly.

MR. CUADERNO. If a poor man has to appeal to a president, can he not be substituted by his representative as is being done at present?

MR. ROMERO. If that is done, I doubt very much whether that is a good argument to use in this case only those who ave friends representatives will be the ones that will have protection of the Governor-General.

MR. CUADERNO. Not necessarily.

MR. ROMERO. Yes, sir; if a por man,a carpenter is of the opposite faction of therepresentative, I doubt very much whether he can approahh that representative. It is not fair that a advantage should be given only to those who have prominent people as friends.

mr. cuaderno. Can he not write to the president himself which is the right of the citizen?

MR. ROMERO. I thinkit is very simple, but I as I said, I dout very much whether the Governor- General and h his staff who has time to considerab deliberately and decide the case.

MR. PEREZ T. Will the gentleman yield?

MR. ROMERO. With pleasure.

MR. PEREZ. T. Is the gentleman aware of the provisions of the draft authorizing appeal a found on page 6 line 5, which says: "The State shall not deny to any citizen free access to the courts by reason of povery." For that reason any poor man may go to the court, without expenses.

MR. ROMERO. Yes; and now we are going to have public defenders in practically every province.

EL PRESIDENTE. Se va a votar la mocion de reconsideracion. Los que esten conformes, digan si. (Una mayoria: si) Los que esten en contra, digan no. (Una minoria, N°) Aprobada la reconsideracion.

Cual es la enmienda?

SR. LAPAK. Que se mantenga la palabra "may" en vez de "shall"

M. CUADERNO. We wold like tomaintain the draft so that the poorman can appeal eithair to the president or to the court.

EL PRESIDENTE. Se va a votar la enmienda. Los que esten conformes, digan si. (Varios Delegados, si) Los que esten en contra, digan no! (Varios Delegados, no) Division. Los que esten en contra, que se levanten ahora. (Se levantan 20 Delegados) Por 52 Votos afirmativos contra 20 negativos, se aprueba. Se mantiene la palabra "may" en el draft.

Tiene la palabra el Chairman del Comite de impeachment.

INFORME ORAL DEL SR. GUTIERREZ DAVID

SR. GUTIERREZ DAVID. Sr. Presidente, creo que no debo informar ya sobre la cuestion del impeachment que es muy sencilla, y por tanto, deseo solamente informar a la convention que laspropuestas enmiendas del comite de siete en cuanto a las sec. 2, de tal suerte que se lea como sigue The Comission of Impeachment of the National Assembly.

En cuanto a las Sd. 3, las palabras "two thirds" se leeran "to furth."

Por tanto, puede tratarse ahora de las enmiend propuestas.

SR. KAPUNAN. Sr. Presidente, pra algunas preguntas al orador.

EL PRESIDENTE. Sr. orador puede contestar, si le place.

SR. GUTIERREZ DAVID. Si, señor.

SR. KAPUNAN. Se puede saber de que fuente se han tomado las disposicionen del draft, de America, por supuesto ?

SR. GUTIERREZ DAVID. Si, señor.

SR. KAPUNAN. Cual es la razon por que se ha exluido del texto americano al palabra "misdemeanor."

SR. GUTIERREZ DAVID. Esa palabra estaba incluida en el informe del comite de Impeachment, pero se ha omitido en el drat. Creo que los miembros del sub-comite de siete, son los que tiene la palabra.

SR. KAPUNAN. En el informe del comite han sdo includidos los jueces de primera instancias?

SR. GUTIERREZ DAVID. No; pero si los gobiernadores provinciales.

SR. KAPUNAN. Cual es la razon por que se exluyen a los jueces de primera instancia del impeachment ?

SR. GUTIERREZ DAVID. Porque estan a investigaciones administrativas por parte de la Corte Suprema.

SR. KAPUNAN. S. S. sabe muy bien que el impeachment puede dele

declarar al acusado nhabilitado, mientas queuna investigacion adminiatativa no puede llegar a ese resultado. Se puede declarar inhabilitado a un funcionrios en una investigacion administrativa?

SR. GUTIERREZ DAVID. Segu n sea la ley.

SR. KAPUNAN. Elimpeachment, tal como esta en el proyecto, incluye a los representantes.

SR. GUTIERREZ DAVID. No.

SR. KAPUNAN. Cual es la razon?

SR. GUTIERREZ DAVID. Los cargos por eleccion, con excepion del Presidente y del vice-Presidene no se incluye enel impeachment.

SR. KAPUNAN. El representante es un cargo por eleccion ?

SR. GUTIERREZ DAVID. Pero como pueden incluirse ?

S R. KAPUNAN. Yo tengo entendido que en Ameria estan incluidos los senadores.

SR. GUTIERREZ DAVID. No, señor Precisamenteel el caso del Senador Burton se ha resulto que un senador no puede ser objeto de impeachment.

SR. KAPUNAN. No señor; no se ha hecho ninguna ruling sobre eso. Tengo enendido que de los nueve de casos de impeachmen en el congreso Americano, seis fueron contra los jueces de distito.

SR. GUTIERREZ DAVID. Eso es cierto.

SR. KAPUNAN. Por que no vamos a incluriles ?

SR. GUTIERREZ DAVID. Si, s. S. quiere que se incluyan puedo presentar la enmienda correspondiente .

SR. KAPUNAN. S. Presidente, desearia dirigir una pregunta a cualquiera de los miembros del subcomite de siete, para que pode mos informarnos de las razones que han tenido han por que ha sido eliminada del proyecto la palabra "mbiemeanor."

SR. ROXAS. Sr. Presidente, el comite agradece el Delegado por Leye, y voy a procurar contestar a sus preguntas.

M

En primer lugar, desco decir al Delegado por Leyte qe nose hasincludi a losrepresentantes.

SR. KAPUNAN. Yo quisieras concreta mi pregunta a la exclusion de la palabra "misdemeanor."

SR. ROXAS. Voy a contestar a eso despues, para completar el record. No se an incluidso a los representantes, prque la misma Constitucion faculta ya a la Asamblea Nacional a disciplicar a los miembros de dicha Asamblea, con la concurrencia de dos terceras prtes de los votos de la Asamblea Nacional para qe un dipodo pueda ser expulsado como miembro de la Asamb. Eso es equivalente al impeachment.

SR. KAPUNAN. Si un Representante es expulsado de la Camra podria esto incluir su inhabilitacion ?

SR. ROXAS. No, señor.

KAPUNAN. Por que no se le ha de someter a un impeachment, para que se incluya la inhabilitacion ?

SR. ROXAS. Es que la exclusion de un miembro de la Camara no empece su procesamiento si fuese culpable del delito.

S. KAPUNAN. Es que en los casos de impachment no esnecesario que haya un procesamiento. Esta en una cuestion diferente. La sentica, regularmente, incluya la inhabilitacion, no importa la sentica que puedetomarse en el expediente.

SR. ROXAS. S. S. sabe que la legislatura puede aprobar una ley final disponiendo qusun representante que fuesereleciondo por mala conducta no podria ser elegido para dicho cargo.

Respecto al "misdemeanor," la frase usada en la constitucion de los Estados Unidos es "high crime y misdemeanor." Esta frase esta tmada de la ley comun, de common law de Inglaterra y tiene su significado bien definido. Misdemeanr, tal como se usa en esta parte de la constitucion, no es equivalente a la palabra "misdeamenor que conocemos en Filipinas. A mi modo de entendar "misdeamenor en Filipinas es equivalens af faltas, en la clasificacion del Codigo Penal; y felonies los delitos. Aqui nohemos hablando de la palabra "misdea-

menor" porque creemos que un funcionarios, como el Presidente la republica no debe ser objeto de impeachment por haber incurrido en una falta, por ejemplo, por haber infringido una ordenanza municipal. Suponiendo que una ordenanza municipal di an que desde a las 6:00 de la tarde, debe tener un quinque en la ventana o en la puerta de la casa u el presidente, por una cmision ha dejado de colocar dicho quinque, no por eso se la va a expulsar de su puesto. Esto seria um falt ; seria "misdemeanor."

SR. KAPUNAN. Para una observacion acerca de los conceptos que S. S. quiere dar a la palabra "misdeamenor ? Constitucionalmente hablado se refiere a conductas que no tiene relacion con el cargo que ocupa un funcionario; de tal manera que una puede esta sujeto a impeachment, en cualesquiera casos que no tegan relacion con el cargo.

SR. ROXAS. Precisamente, el no colocar un quinque n la ventana o en la puerta, de su casa no tiene nada que ver con el cargo. Precisamente el colocar un quinque en la puerta de su casa.

EL SR. KAPUNAN. No, pero suponiendo que un funcionario tenga dos o tres, mejor dicho, sea devoto de la poligamia.

SR. ROXAS. Ese no seria misdemeanor.

SR. APUNAN. Es misdemeanor constitucionalmente, hablando.

SR. ROXAS. No, señor. Mala conducta nada mas; eso envuelve torpeza moral. Hemos decido eliminar la frase high crime, creyendo que la Asamblea Nacional podria mantener la misma interprtacion que en American se ha dado esta frase.

EL KAPUNAN. Precisamente a proposito de eso, unjuez de distrito en American Ha sido sujeto a un impeachment por estar constantemente iluminado, es decir, borracho y esto es el misdeamenor constitucionalmnte hablando.

SR. ROXAS. Esto en America ni siquiera es midemeanor a menos que perturbe el orden publico. La borranchera en Filipinas no es siquiera delito.

SR. KAPUNAN. Los discursos que un juez puede pronunciar tambien se misdemeanor; no es high crime; la embriaquez que acabo de mencionar no es high crime; ero es motivo de misdemeanor. Si surpriminos na palabra "misdeameanor " entonces el impeachment no se ejercera sino en aquellos cargos relacbnes don las funciones del individuo, s de este modo no habria lugar al impeachment.

SR. ROXAS. Nosotros creemos que para que pueda justificarse un impeachment al funcionario tiene que ser culpable de una infraccion grave. Si ha violado o infrigido alguna ley, el mero hecho de que el es miembros de la corte Supreme, si es culpable puede ser procesado.

SR. KAPUNA. No puede haber motivo de impeachment.

SR. ROXAS. Creo que si.

SR. KAPUNAN. Creo que si.

SR. KAPUNAN. Como calificaria su señoriaentonces ese caso?

SR. ROXAS. High crimes.

SR. KAPUNAN. No creo que ninguna califique ladevocion a la poligamia comó high crime.

SR. ROXAS. Precisamente he dicho al caballero quela frase High crime permite que la Asamblea Nacional , segun las circunstancias puede determiner si una infraccion cometida por un funcionario es de suficiente gravedad para constituir high crime.

SR. KAPUNAN. Vamos al caso de adulterio.

SR. ROXAS. No es high crime ni tampoco es misdemeanor; sin embargo, puede dar lugar a la acusacion de impeachment.

EL SR. KAPUNAN. S. S. cree que un miembro de la Corte Suprema que fuese culpable de adulterior y condenado por un juzgado...

No es necesio que sea condenado; la cuestion es que dedique a picos pardos. La moral es lo que se aquilata aqui. La embriaguez de un juez de primera instancia que abre las sesiones viendo cuatro abogados en la sala en vez de dos.

Como clificaria su señoria?

SR. BUSLON. Yo quisiera saber si el Caballero que esta preguntado tiene presentada una enmienda sobre este particular.

SR. KAPUNAN. No he querido presentar enmiendas sino solamente proponer a la Asamblea cuestion de hechos.

SR. ROXAS. Para terminar, quiero decir que hemos usado la frase high crime solamente con el fin de no ser molestados el presidente, los miembros de la Corte Suprema y el Auditor General mas que otros de ites de gravedad.

SR. BUSLON. Yo quisiera saber que motivo especial tiene el comite el insertar la palabra "culpable" antes de la palabra "violation."

SR. GUTIERREZ DAVID. Culpable de vidacion, tengo entendido cuando la infraccion se comete de mala fe.

SR. BUSLON. De modo que habria infraccion en la constitucion de buena fe y eso no se castiga.

SR. GUTIERREZ DAVID. Desde luego porque puede cometarse un error que sea contrario precisamente a la disposiciones de la constitucion.

SR. BUSLON. No pede sucede que un funcionario vaya cometiendoinfracciones contra la constitucion alegando despues que lo ha estado ha ciendo de buena fe?

AR. GUETIERREZ DEVID. Esa es cuestion depruebas.

EL PRESUDENTE. Se va a someter a la consideracion de la Asamboea las enmienda en vista de que el comite de Impeachment como el subcomite de siete estan de acuerdo con respecto a esa enminda. Hay alguna otro delegado que quiera hablar en relacion con estas enmiendas?

SR. BELLA. Podia informarnos el chairman del comite de empeachment eà motivo de stas dos enmiendas, con respecto al numero, o mejor dicho al voto necesario ?

SR. GUTIERREZ DAVID. Yo voy a endosr esa pregunta al subcommite de Siete.

SR. ROXAS. La razon de la primera enmienda es la siguein-
Se: El draft requiere solamene el voto de um mauoria para pro-
voter un impeachment. Nosotros creemos que esbastante peligor-
so permitir que ones miembns de la comision de Speachment
soem sufficientes para promover cargos contra el Presiden-
te, contra losmiembros de la corte Suprema y contra el
Additor. Por tanto, creemos que para evitar acusaciones injus-
tas o innecesarias, se debe requierir las dos terceras partes;
á e modo que en ves de once se requira por ò menos catorce
tovos dol comite de vientiuno para promoer um a speachment.
Y la segunda enmnda el draft require las dos terceras partes
de los miembros de la Asamblea con exclusion de los veintiuno;
en docimi la Asamblea tèviese noventa y seis miembros, elimi-
nando los veintiuno del comite de S peachment, quedrian sen-
tenta y cinco miembos. Bajo el draft, cincuenta de los se-
tenta y cinco, seria suficiente para condnr. Nosotros cree-
mos que con elobjecto de que la secion de la Asamblea este
enmienda realmente por el juicio de una mayoria considera-
ble de los miembros, que se debe exigir tres cuartas par-
tics.

Portanto, para poder condemar al presidente, los miembros
de la corte Suprma o al Auditor General, se requieriran cato-
rce votos de los veintiuno miembros del cojite de speachment
y cincuenta ysite votos, por lo menos de los setenta
y cinco restantes o sea un total de setenta y um miembro.

EL PRESIDENTE. Esta dspuesta la Asambla a votar las
enmiendas? (Varios Delegados: SI)

Los que esten conformes con las enmiadas, quedigan si.
(Varios Sres. Delegados: si) Los que no lo esten, que di an no.
(Silencio.) Quedan aprobadas.

SR. ENRIQUEZ. En la linea 23, pagina 2 C-A quedice
"O por tracicion."

EL SR.ENRIQUEZ. Noseria mejor que se pudieran a gregar a la palabra "tracicion" las palabta "o por traicion a la patria," para no indic ar que se traicionm el ejecutivo ?

SR. ROXAS. La Palabra "taicion," tiene que ser tracicion a la patria.

EL PRESIDENTE. Hay alguna enmienda importante al capitulo sobre el impeachment, juicio de la asamblea que pueda considerarse?

MR. ABOKDO. Mr. President, in view of the estatement made by a ranking member of the committee of seven with respect tothe qestion profounded by Delegate from Leyte, I think that the amendment of Delegate Guzman is worth considering by the convention INVOLVING moral topitule.

THE PRESIDENT. The amendment is not here.

MR. ABOKDO. I went only to say that the amendment of Delegate Guilas is very important.

It is my amendment but I am only calling the attention of the convention.

MR. PEREZ T. Mr. President, we have presented an amendment under the article on Impeachment in the following terms: "In no case no members of the National Assembly directly or indirectly shall appear as counsel." May we ask from the commitee, Mr. President, if there would be an assurance that in case the President or vice-President.....

EL PRESIDENTE. Parece que s innecesaria la enmienda, porque eson actuan como jueces.

MR. PEREZ T. May not any member of the National Assembly waive his right as judge and appear as counsel?

THE PRESIDENT. It is absurd.

MR.PEREZ T. I withdraw my amendment.

EL PRESIDENTE. Podemos aprobar el capitulo sobre impeachment?

Los que esten conformes con dicho capitulo, qhe digan. si. (Varios Sres. Delegados: si) Los qe no lo esten, que digan no. (Varios Sres. Delegados: N$_o$)Hay una mayoia en favor. Queda aprobado dicho capitulo.

MOCION ROMERO. SU APROBACION.

SR. ROMERO. Sr. Presidente, proponemos que en vez de dos sesiones, la Asamblea desde mañana celebre una sola sesion, de dos de la tarde, hasta las 8 de la noche.

EL PRESIDENTE. Se va a votar la mocion. Los que eten conformes con ella que digan si. (Varios Delegados: si) Los qe no lo esten, que digan no. (Varios Delegados: N^o) Hay una mayoria en favor de la mocion. Queda aprobada.

LEVANTAMIENTO DE LA SESION.

SR. PRESIDENTE. Si no hay objecion la Mesa levantara la sesion hasta mañana. (XXX No hubo objecion)

Eran las 5:05 p. m.